

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

In re: Debtor(s) name(s) used by the debtor(s) in the last 8 years, including married, maiden, and trade):

Jeffrey M. Garber
Debtor 1

Chapter 13

Case No. 1:23-BK-00249-HWV

Matter: Application for Payment of Administrative Expenses

APPLICATION FOR PAYMENT OF ADMINISTRATIVE EXPENSES

AND NOW comes Counsel for Debtor(s), Paul D. Murphy-Ahles, Esquire and DETHLEFS PYKOSH & MURPHY, who file the within Application for Payment of Administrative Epxenses, and aver as follows:

1. The Debtor(s) filed a Chapter 13 Petition on February 6, 2023.
2. The Standing Chapter 13 Trustee's accounting indicates that Debtor(s) have paid \$13,000.00 to his office and after payment of the Trustee's commission, the balance on hand is \$12,182.00.
3. On February 13, 2023, a Request for Payment of Chapter 13 Compensation and Expenses (LBF 2015-2(c)) was filed in conjunction with the Chapter 13 Plan.
4. Prior to the filing of Debtor(s)' case, Debtor(s) paid a retainer fee in the amount of \$838.00 with a balance due of \$3,632.00.
5. Counsel for Debtor(s) have performed post-petition services such as attending multiple hearings including attending §341 Meeting of Creditors and several confirmation hearings. Counsel has also expended time and effort dealing with creditors and their respective attorneys. The post-petition services meet or exceed the presumptively reasonable fee of \$4,500.00.
6. Debtor(s) no longer wish to proceed with their case and the case was dismissed on April 3, 2024.
7. The Third Circuit stated in *In Re: Michael*, 699 F.3d 05 (3d Cir. 2012)

... under §1326(a)(2) the trustee must return all payments held by it to the debtor if a plan is not confirmed, or (ii) under §1327(b) property of the estate already is vested in the debtor at the time of the conversion after confirmation of a plan. Sections 348 and 349 are broad provisions applicable to every Chapter of the Bankruptcy Code. The specific provisions of Chapter 13 supersede any distinction that may be read into these proceedings general provision.
8. This Court finds that the specific provision of §1326(a)(2) controls the general directive in §349(b)(3) and, therefore, it should not be relevant whether the source of the undisbursed funds was pre-petition or post-petition.

9. *Harris v. Viegelahn*, 575 U.S. ___, 135 S.Ct.1928, 191 L.Ed.2d 783 (215) applies only in the instance of conversion and does not abrogate 11 U.S.C. §1326(a)(2). See *In Re: Ulmer*, 2015 WL 3955258 (Bankr.W.D. La. June 26, 2015).

10. §1326(a)(2) states that administrative expenses allowed pursuant to §503(b) are to be paid out of the funds on hand if the plan is not confirmed. See *In re: Brandon*, No. 14-23735 (lead case), *In re: Rucker*, No. 14-27630, and *In re: Burrows*, No. 14-28940 (Sept. 10, 2015):

In these circumstances, the Chapter 13 trustee is bound by the provisions of the third sentence of §1326(a)(2) of the Bankruptcy Code, which requires the Chapter 13 trustee to return undistributed plan payments to the debtor if a plan is not confirmed “after deducting any unpaid claim allowed under section 503(b).” Under §503(b)(2) of the Bankruptcy Code, the administrative expenses allowable under §503(b) include “compensation and reimbursement awarded under section 330(a).” In a Chapter 13 case, such compensation includes “reasonable compensation to the debtor’s attorney for representing the interests of the debtor in connection with the bankruptcy case.” 11 U.S.C. §330(a)(4)(B). Thus, the applicable statutory scheme expressly directs Chapter 13 Trustees to return funds on hand to the debtor when (as here) a plan is not confirmed, but only after payment of the allowed fees of the debtor’s attorney.

11. Attorneys’ fees are an administrative expense under Code §503(b)(2).

WHEREFORE, Counsel for Debtor(s) respectfully requests an Order directly the Standing Chapter 13 Trustee to disburse the funds on hand, up to \$4,500.00 to counsel of record pursuant to US Bankruptcy Code §1326(a)(2) and §503(b)(2).

Date: April 10, 2024

Paul D. Murphy-Ahles, Esquire
PA ID No. 201207
DETHLEFS PYKOSH & MURPHY
2132 Market Street
Camp Hill, PA 17011
(717) 975-9446
pmurphy@dplglaw.com
Attorney for Debtor(s)

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NOTICE

NOTICE OF OPPORTUNITY TO OBJECT AND HEARING: Pursuant to Local Rule 2002-1(a), the Court will consider this Motion without further notice of hearing unless a party in interest files an objection/response on or before **May 1, 2024**. If you object to the relief requested, you must file your objection/response with the Court of the Court and serve a copy of it on the Movant and Movant's Attorney.

If you file and serve an objection/response within the time permitted, the Court may schedule a hearing and you will be notified. If you do not file an objection within the permitted time, the Court will deem the Motion unopposed and proceed to consider the Motion without further notice or hearing and the Court may grant the relief requested.

Date: April 10, 2024

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Matter: Application for Compensation and
Reimbursement of Expenses

ORDER OF COURT

UPON CONSIDERATION of the Application for Payment of Administrative Expenses (“Application”) filed by Counsel for Debtor(s) (“Applicant”), it is HEREBY ORDERED:

1. The Application is GRANTED; and
2. Compensation is ALLOWED in favor of Applicant in the amount of \$4,500.00; and
3. The Standing Chapter 13 Trustee is authorized to disburse to DETHLEFS PYKOSH & MURPHY as an administrative expense pursuant to 11 U.S.C. §1326(b)(2), 11 U.S.C. §349(b)(3), and 11 U.S.C. §503(b), the allowed compensation set forth in Paragraph 2 of this Order of Court less \$838.00 which was paid by Debtor(s) pre-petition, to the extent that such distribution is authorized under the terms of the confirmed Chapter 13 Plan.

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Matter: Application for Payment of Administrative Expenses

CERTIFICATE OF SERVICE

I hereby certify that on Wednesday, April 10, 2024, I served a true and correct copy of the **Application for Payment of Administrative Expenses, Notice of Opportunity to Object and Hearing, and proposed Order** in this proceeding via electronic means or USPS First Class Mail upon the recipients as listed in the Mailing Matrix.

/s/ Kathryn S. Greene

Kathryn S. Greene, RP®, Pa.C.P.
Paralegal for Paul D. Murphy-Ahles, Esquire

Label Matrix for local noticing
0314-1
Case 1:23-bk-00249-HWV
Middle District of Pennsylvania
Harrisburg
Thu Nov 16 12:12:52 EST 2023

Specialized Loan Servicing LLC
14841 Dallas Parkway, Suite 850
Dallas, TX 75254-7685

U.S. Bankruptcy Court
Sylvia H. Rambo US Courthouse
1501 N. 6th Street
Harrisburg, PA 17102-1104

Lakeview Loan Servicing, LLC
4425 Ronce DeLeon Boulevard
Mail Stop MS 5-231
Miami, FL 33146-1837

(p)NATIONSTAR MORTGAGE LLC
PO BOX 619096
DALLAS TX 75261-9096

PA Department of Revenue
Attn: Bankruptcy Division
PO Box 280496
Harrisburg, PA 17128-0946

Select Portfolio Servicing
PO Box 15250
Salt Lake City, UT 84165-0250

Synchrony Bank / Lowe's
Attn: Bankruptcy Department
PO Box 965061
Orlando, FL 32896-5061

(p)YORK TRADITIONS BANK
ATTN CHARLES A WURSTER CREDIT OFFICER
226 PAULINE DR PO BOX 3658
YORK PA 17402-0136

Paul Donald Murphy-Ahles
Dethlefs, Pytkosh & Murphy
2132 Market Street
Camp Hill, PA 17011-4706

(p)INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATIONS
PO BOX 7346
PHILADELPHIA PA 19101-7346

Specialized Loan Servicing, LLC
Robertson, Anschutz, Schneid, Crane & Pa
130 Clinton Rd #202
Fairfield, NJ 07004-2927

BBVA
50 South 20th Street
Birmingham, AL 35233

Lakeview Loan Servicing, LLC
c/o Nationstar Mortgage LLC
Attn: Bankruptcy Department
P.O. Box 619096
Dallas, TX 75261-9096

Nationstar Mortgage LLC
Attention: Bankruptcy Department PO Box
Dallas TX 75261-9096

(p)PNC BANK RETAIL LENDING
P O BOX 94982
CLEVELAND OH 44101-4982

Specialized Loan Servicing LLC
6200 S. Quebec Street, Suite 200
Greenwood Village, Colorado 80111-4720

York Adams Tax Bureau
1405 North Duke Street
PO Box 15627
York, PA 17405-0156

(p)JACK N ZAHAROPOULOS
ATTN CHAPTER 13 TRUSTEE
8125 ADAMS DRIVE SUITE A
HUMMELSTOWN PA 17036-8625

Lakeview Loan Servicing, LLC
c/o Stern & Eisenberg, PC
1501 Main Street
Suite 200
The Shops at Valley Square
Warrington, PA 18976-3403

United States Trustee
US Courthouse
1501 N. 6th St
Harrisburg, PA 17102-1104

Internal Revenue Service
Centralized Insolvency Operations
PO Box 7346
Philadelphia, PA 19101-7346

(p)MANLEY DEAS KOCHALSKI LLC
ATTN BANKRUPTCY DEPT
1555 LAKE SHORE DRIVE
COLUMBUS OH 43204-3825

Nationstar Mortgage LLC d/b/a Mr. Cooper
Attn: Bankruptcy Department
P.O. Box 619096
Dallas, TX 75261-9096

Robertson, Anschutz, Schneid, Crane & Partne
130 CLINTON RD #102
FAIRFIELD, NJ 07004-2927

Stern & Eisenberg, PC
The Shops at Valley Square
1501 Main Street, Suite 200
Warrington, PA 18976-3403

York County Tax Claim Bureau
28 East Market Street
York, PA 17401-1501

Jeffrey M. Garber
56 Thomas Drive
Mc Sherrystown, PA 17344-1135

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

IRS
1001 Liberty Avenue
Suite 601C
Pittsburgh, PA 15222

Manley Deas Kochalski, LLC
1555 Lake Shore Drive
PO Box 165028
Columbus, OH 43216-5028

Nationstar Mortgage LLC
Attention: Bankruptcy Department
PO Box 619096
Dallas TX 75261-9741

(d)Nationstar Mortgage, LLC
PO Box 619096
Dallas, TX 75261-9741

PNC Bank NA
Bankruptcy Department
PO BOX 94982
Cleveland, OH 44101

York Traditions Bank
226 Pauline Drive
PO Box 3658
York, PA 17402-0136

Jack N Zaharopoulos
Standing Chapter 13
(Trustee)
8125 Adams Drive, Suite A
Hummelstown, PA 17036

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER

(u)Nationstar Mortgage LLC

(d)Lakeview Loan Servicing, LLC
c/o Stern & Eisenberg, PC
1581 Main Street, Suite 200
The Shops at Valley Square
Warrington, PA 18976-3403

End of Label Matrix
Mailable recipients 27
Bypassed recipients 3
Total 30

